IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 918 of 2001 (S/B)

Dr. Ashok Kumar Josoph S/o Late Sri B. Josoph,
Resident of Josoph Niwas, Dwarahaat,
Distt. Almora, At Present Veterinary Officer,
Govt. Veterinary Hospital, Okhalkanda,
Distt. Nainital.]--- Petitioner

Vs.

1. Chief Veterinary Officer, Nainital
   State of Uttaranchal.
2. Addl. Director/ Director Animal Husbandry at
   Gopeshwar, Distt. Chamoli, Uttaranchal.
3. Secretary, Animal Husbandry at Dehradun,
   Uttaranchal.
4. Director Animal Husbandry State of U.P., at Lucknow.
5. State of U.P., Through Secretary Animal Husbandry
   At Lucknow.]---Respondents

Sri Vijay Bhatt, Advocate for the petitioner,
Sri K.P. Upadhyaya, learned counsel for the State of Uttaranchal.
Sri B.S. Verma, Standing Counsel, for the State of U.P.

Coram: Hon. S.H.Kapadia, C.J.

Hon. Irshad Hussain., J.

Dated: 13.08.2003.

ORAL JUDGMENT: [Per Hon'ble S.K. Kapadia, C.J.]

Rule.

Respondents waived service.

By consent writ petition was taken up for hearing and disposed of by this judgment.

Petitioner was recruited as Assistant Department Officer (Veterinary) Group-B in 1981. He was appointed in Govt. Veterinary Hospital at Almora. U.P. Veterinary Group-B Services has two modes of recruitment to the post of Medical Officer. 98% shall be recruited by direct recruitment through Public Service Commission and 2% by promotion through the Commission from substantively appointed employees working in the department. The petitioner obtained Veterinary degree in Veterinary Science in October 1995. He claims promotion from October 1995 in promotes category on the ground that he has obtained a degree in Veterinary Science and on his obtaining the degree he was entitled to be promoted. He relies upon certain Govt. orders in support of his case. It is argued that similarly situate persons

have been given promotions from the date of graduation. He submits that he has not been promoted and therefore, the departmental Rules have been violated. He, therefore, claims promotion to the post of Medical Officer (Veterinary) from October 1995.

We do not find any merit in this petition. Firstly, petitioner has been given promotion to the higher post from March 2001. However, he seeks promotion from 1995. He seeks promotion from the date of his obtaining degree in 1995. No rule is shown to us in that regard by the petitioner. Secondly, other persons who have been promoted to the post of Medical Officers belonging to 1992 batch. There is no comparison between the case of the petitioner and the case of the officers who belong to 1992 batch. Not a single officer from 1995 batch has been promoted to the post of Medical Officer. Therefore, there is no comparison between the case of the petitioner and the case of the officer who have been promoted earlier. Thirdly, no reason has been given by the petitioner for not filing the petition between October 1995 to March 2001. This point is important. The petition is filed in 2001 under which the petitioner claims promotion and all benefits from October 1995. In fact, the petitioner has been promoted only in March 2001. To grant all benefits for the post of Medical Officers from October 1995 would not be right, because the petitioner has never worked as Medical Officer between October 1995 to March 2001. Lastly, the petitioner's name has not been cleared by the Public Service Commission till today. Under the Rules, promotion have to be made on the basis on recommendations of Public Service Commission. Till today no such recommendations have been made by Public Service Commission.

For all the aforestated reasons, writ petition is rejected.

(Irshad Hussain, J.) **(S.H.Kapadia, C.J.)**

Melkani: